

**LEGISLATIVE SERVICES AGENCY  
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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**FISCAL IMPACT STATEMENT**

**LS 6012**

**BILL NUMBER:** HB 1210

**NOTE PREPARED:** Dec 24, 2012

**BILL AMENDED:**

**SUBJECT:** Indiana Utility Regulatory Commission Fining Authority.

**FIRST AUTHOR:** Rep. Pierce

**BILL STATUS:** As Introduced

**FIRST SPONSOR:**

**FUNDS AFFECTED:** X GENERAL  
X DEDICATED  
FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** This bill allows the Indiana Utility Regulatory Commission (IURC) to impose a civil penalty of up to \$5,000 on a public utility providing energy services that violates or fails to comply with any: (1) utility law; or (2) rate or service requirement imposed by the IURC. It allows the IURC to impose an additional penalty of up to \$10,000 if the violation or failure to comply demonstrates a willful disregard by the public utility of the public utility's duty to remedy the violation or a willful failure to comply.

This bill specifies that a suit to recover or collect a forfeiture or penalty imposed by the IURC must be brought by the IURC or, at the IURC's option, by the Attorney General. This bill also provides that if the IURC acts independently of the Attorney General to recover or collect a forfeiture or penalty, the IURC may, subject to the approval of the Governor and the Budget Agency, contract with outside counsel to prosecute the suit or assist the IURC in prosecuting the suit.

**Effective Date:** July 1, 2013.

**Explanation of State Expenditures:** *IURC:* This bill could increase the administrative expenses of the IURC. The bill allows the IURC to contract with an outside counsel to prosecute or assist the IURC in prosecuting a suit to recover a penalty. The increase in administrative costs could be offset by the collection of the noncompliance penalties.

**Explanation of State Revenues:** *IURC Civil Penalty* - The IURC may impose a civil penalty up to \$5,000 on a public utility for failing to comply with the standards of service established by the IURC or rate or service requirements imposed by the IURC. In addition, the IURC may impose another civil penalty of not more than

\$10,000 if the failure to comply demonstrates a continuing pattern of misconduct. The money collected from these penalties must be deposited in the state General Fund.

The civil penalties contained in this bill may only be levied against utilities that provide energy services. Violations by all other types of utility providers, for which the penalty is not otherwise provided, is a Class B infraction. The amount of revenue that could be generated by these civil penalties depends on the prevalence of the infractions and the willingness of the IURC to impose the civil penalties.

*Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Revenue from the pro bono services fee (\$1) is transferred by the State Auditor to the Indiana Bar Foundation for use to assist with pro bono legal services programs in Indiana. And proceeds from the automated record keeping fee (\$5) are deposited into the state User Fee Fund.

Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

#### **Explanation of Local Expenditures:**

**Explanation of Local Revenues:** *Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Persons filing a civil case are also required to pay the following fees that are deposited in local funds.

The document storage fee (\$2) is deposited into the clerk record perpetuation fund.

The following fees are deposited into the general fund of the county in which the court is located:

- Document fees (\$1 per document) are charged for preparing transcripts or copies of record or certificate under seal.
- Service fee (\$10) collected from the filing party for each defendant beyond the first cited in the lawsuit.

**State Agencies Affected:** IURC

**Local Agencies Affected:** Trial courts, city and town courts

#### **Information Sources:**

**Fiscal Analyst:** Heath Holloway, 232-9867.